

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 95-14

August 21, 1995

TO: All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM: Fred Feinstein, General Counsel

SUBJECT: Mandatory Submission of Cases to Advice

Recently, several cases have presented issues concerning the legality of union or union-sponsored actions which, although often arising in the context of a labor dispute, address matters of social concern. These cases present difficult issues which often are of national in scope or implicate the relationship between our statute and other areas of law. Consequently, you should submit to Advice all cases which present such issues.

These cases arise in various contexts and involve different sections of the Act. They usually arise in the context of a labor dispute between the union and an employer, often a non-unionized employer. Examples of such cases are those which involve lawsuits or regulatory agency proceedings initiated by unions or alleged agents of unions which relate to social or public concerns such as violations of sister statutes or state or federal government policies. Another example of cases which should be submitted are those which allege as unlawful protests by unions or their alleged agents which assert, at least in part, that the employer is breaching a public policy or statute other than the NLRA. Still another example is the issue of whether a group which addresses social or political issues is a labor organization.

If you are unsure as to whether a case falls within this category of cases and therefore is a mandatory submission to Advice, please call the Division of Advice.

In addition, periodically a Board notice to parties for response following a remand from the Court of Appeals involves issues which require a General Counsel position. In order to better coordinate our efforts in that regard, whenever a Regional Office receives such a notice from the Board, the Division of Advice should immediately be informed and sent copies of the complaint, briefs, and the Board and Court decision or appropriate citations. The Division of Advice will coordinate the matter and direct the Region in the appropriate response.

F. F.

cc: NLRBU

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